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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,960	02/08/2001	Vesa Lehtovirta	2380-207	5814

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1100 North Glebe Road  
Arlington, VA 22201

EXAMINER

PEREZ GUTIERREZ, RAFAEL

ART UNIT	PAPER NUMBER
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2686

9

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/778,960

**Applicant(s)**

Lehtovirta et al.

**Examiner**

Rafael Perez-Gutierrez

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 8, 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on May 25, 2004. **Claims 1-45** are now pending in the present application. **This Action is made NON-FINAL.**

### *Priority*

2. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application); the disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994). In the present application, support for the following limitations is lacking in the provisional applications:

a) determining one or more subscriber unit connections affected by the detected failure; and sending a message identifying the one or more affected subscriber unit connections (from claim 1);

b) sending a message identifying the failed device to one or more other nodes, wherein the one or more other nodes release radio subscriber unit connections associated with the identified failed device (from claim 15);

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c) the one node is configured to send a message to another of the nodes identifying one or more radio unit connections affected by the failure (from claim 21);

d) determine one or more subscriber unit connections affected by the detected failure; and send a message to one or more other network nodes identifying the one or more affected subscriber unit connections (from claim 34); and

e) means for determining one or more radio subscriber unit connections affected by a failure detected in a radio access network node, and means for sending a message identifying the one or more affected radio subscriber unit connections (from claim 43).

Applicant is welcomed to point out where in the provisional applications the Examiner can find support for the above-mentioned limitations if Applicant believes otherwise.

### ***Claim Objections***

3. **Claim 4** is objected to because of the following informality: On **line 3**, insert --- after "failure". Appropriate correction is required.

4. **Claim 42** is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. In the instant case, **claim 34** already recites that the network node is in an access network. Appropriate correction is required.

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***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-45** are rejected under 35 U.S.C. 102(e) as being anticipated by **Vilander et al. (U.S. Patent # 6,775,542 B1)**, newly cited.

The applied reference has a common assignee and a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

6. Consider **claim 1**, Vilander et al. clearly show and disclose in a communication system where connections are established between an external network and subscriber units by way of an access network (abstract and figure 1), a method comprising:

detecting a failure in a node (abstract and figure 3);

determining one or more subscriber unit connections affected by the detected failure

(figure 3 and column 2 line 50 - column 4 line 36); and

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sending a message identifying the one or more affected subscriber unit connections  
(column 5 line 64 - column 6 line 49).

Consider **claim 15**, Vilander et al. clearly show and disclose in a communication system where connections are established between an external network and radio subscriber units by way of a radio access network (abstract and figure 1), a method comprising:

detecting a failure in a device in a node (abstract and figure 3), and

sending a message identifying the failed device to one or more other nodes, wherein the one or more other nodes release radio subscriber unit connections associated with the identified failed device (column 2 line 50 - column 4 line 36 and column 5 line 64 - column 6 line 49).

Consider **claim 21**, Vilander et al. clearly show and disclose in a radio communication system providing communications between an external network and radio units (abstract and figure 1), a radio access network that interfaces the external network and the radio units (figure 1), comprising:

a radio network control node 1 for communicating with the external network (figure 1);

and

a radio base station node coupled to the radio network controller configured to provide a radio interface with plural radio units (figure 1),

wherein when a failure is detected in one of the nodes (abstract and figure 3), the one node is configured to send a message to another of the nodes identifying one or more radio unit connections affected by the failure (column 2 line 50 - column 4 line 36 and column 5 line 64 - column 6 line 49).

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Consider **claim 34**, Vilander et al. clearly show and disclose in an access network providing communication connections between an external network and a subscriber unit (abstract and figure 1), a network node communicating with one or more network nodes (figure 1), comprising:

a controller configured to perform the following tasks (figures 1 and 3):

detect a failure in the network node (abstract and figure 3);

determine one or more subscriber unit connections affected by the detected failure (figure 3 and column 2 line 50 - column 4 line 36); and

send a message to one or more other network nodes identifying the one or more affected subscriber unit connections (column 5 line 64 - column 6 line 49).

Consider **claim 43**, Vilander et al. clearly show and disclose in a communication system where connections are established between an external network and radio subscriber units by way of a radio access network (abstract and figure 1), apparatus comprising:

means for determining one or more radio subscriber unit connections affected by a failure detected in a radio access network node (abstract, figures 1 and 3 and column 2 line 50 - column 4 line 36), and

means for sending a message identifying the one or more affected radio subscriber unit connections (column 5 line 64 - column 6 line 49).

Consider **claims 2-14, 16-20, 22-33, 35-42, 44, and 45**, and as applied to **claims 1, 15, 21, 34, and 43** above, Vilander et al. clearly discloses the claimed limitations in column 2 line 50 - column 4 line 36 and column 4 line 54 - column 8 line 25.

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***Response to Arguments***

7. Applicant's arguments with respect to **claims 1, 15, 21, 34, and 43** have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Any response to this Office Action should be **faxed to (703) 872-9306 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

220 S. 20<sup>th</sup> St.  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

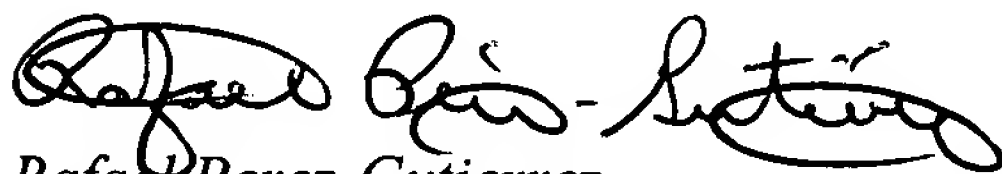
Information regarding the status of an application may be obtained from the Patent



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Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.



*Rafael Perez-Gutierrez*

R.P.G./rpg **RAFAEL PEREZ-GUTIERREZ**  
**PATENT EXAMINER**

October 4, 2004